



## **DEPARTMENT OF TRANSPORTATION**

### **Federal Railroad Administration**

#### **[Docket Number FRA-2014-0081]**

#### **Petition for Waiver of Compliance**

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that by a document dated August 8, 2014, the City of San Clemente, CA, (City) has petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR Part 222, Use of Locomotive Horns at Public Highway-Rail Grade Crossings. FRA assigned the petition Docket Number FRA-2014-0081.

The City is seeking a waiver from various requirements of 49 CFR part 222 in order to eliminate the routine sounding of locomotive horns by trains approaching six pedestrian crossings and one private highway-rail grade crossing. The City proposes the use of a wayside horn in lieu of the locomotive horn to provide an audible warning at the crossings. The City's petition for a waiver proposes three options as a means to silence the routine sounding of the locomotive horn when a train approaches the pedestrian and private crossings.

- Option 1 – Redefine the Length of a Quiet Zone. The City seeks a waiver from the requirement of 49 CFR 222.21(b)(3) that trains traveling in excess of 60 mph must not begin sounding the horn more than one-quarter mile in advance of the nearest public highway-rail grade crossing. The City requests a waiver that would

change the distance from one-quarter mile to 2½ miles. This would allow the seven crossings to be included in the City's existing Federal quiet zone. Option 1 also requests that waivers be granted from the following regulations: 49 CFR 222.25(b)(1) and (2) so that an additional diagnostic team evaluation is not necessary at the private highway-rail crossing, 49 CFR 222.27(b) and (c) so that additional diagnostic team evaluations are not necessary at the six pedestrian crossings, 49 CFR 222.43(a)(1) so that a Notice of Intent is not necessary, and 49 CFR 222.39(b)(3) to allow a 20-day comment period instead of a 60-day comment period on a public authority application for FRA approval. The City also requests the following waivers be granted pertaining to the use of a wayside horn: 49 CFR 222.59(a)(1) to allow the use of a wayside horn at a pedestrian crossing and 49 CFR part 222, Appendix E, Paragraphs 4 and 6, to allow a minimum sound level of 80 dB(A) when measured 20 feet from the crossing gate and that a wayside horn does not need to be directed toward approaching traffic.

- Option 2 – One-for-One Replacement. The City requests the following waivers be granted pertaining to the use of a wayside horn in lieu of the locomotive horn: 49 CFR 222.59(a)(1) to allow the use of a wayside horn at a pedestrian crossing and Appendix E to 49 CFR part 222, Paragraphs 4 and 6, to allow a minimum sound level of 80 dB(A) when measured 20 feet from the crossing gate and that a wayside horn does not need to be directed toward approaching traffic.
- Option 3 – Establish a New Quiet Zone Without a Public Highway-Rail Crossing. The City requests a waiver from the definition of a new quiet zone as found in 49 CFR 222.9 so that a new quiet zone could be established without a public

highway-rail grade crossing. Option 3 also requests that waivers be granted from the following regulations: 49 CFR 222.25(b)(1) and (2) so that an additional diagnostic team evaluation is not necessary at the private highway-rail crossing, 49 CFR 222.27(b) and (c) so that additional diagnostic team evaluations are not necessary at the six pedestrian crossings, 49 CFR 222.43(a)(1) so that a Notice of Intent is not necessary, and 49 CFR 222.39(b)(3) to allow a 20-day comment period instead of a 60-day comment period on a public authority application for FRA approval.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at [www.regulations.gov](http://www.regulations.gov) and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue, S.E., W12-140, Washington, D.C. 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- Web site: <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- Fax: 202-493-2251.

- Mail: Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, S.E., W12-140, Washington, D.C. 20590.
- Hand Delivery: 1200 New Jersey Avenue, S.E., Room W12-140, Washington, D.C. 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by [INSERT DATE 45 DAYS FROM PUBLICATION OF THIS NOTICE] will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). See <http://www.regulations.gov/#!privacyNotice> for the privacy notice of regulations.gov or interested parties may review DOT's complete Privacy Act Statement in the Federal Register published on April 11, 2000 (65 FR 19477).

Issued in Washington, DC, on September 4, 2014.

Ron Hynes,  
Director, Office of Technical Oversight.

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